

98TH CONGRESS
1ST SESSION

H.R. 2500

To amend and reauthorize the Export Administration Act of 1979

IN THE HOUSE OF REPRESENTATIVES

APRIL 12, 1983

Mr. ROTH (for himself and Mr. BONKER) (by request) introduced the following bill, which was referred to the Committee on Foreign Affairs

A BILL

To amend and reauthorize the Export Administration Act of 1979.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 AMENDMENTS TO FINDINGS

4 SECTION 1. Section 2 of Public Law 96-72 is amended
5 as follows:

6 (1) by striking in paragraph (3), "which would
7 strengthen the Nation's economy.", and substituting in
8 lieu thereof, "consistent with the economic security,
9 and foreign policy objectives of the United States.";

1 (2) by striking paragraph (5), redesignating para-
2 graph (4) as paragraph (5), and redesignating para-
3 graphs (7)–(9) as paragraphs (8)–(10), respectively; and
4 (3) by inserting after paragraph (3):

5 “(4) Availability from foreign sources of goods and
6 technology that are controlled by the United States to
7 protect its national security can adversely affect that
8 security.”; and

9 (4) by inserting after paragraph (6),

10 “(7) The transfer of critical commodities and tech-
11 nical data has made a significant contribution to the
12 military potential of other countries that has been det-
13 rimental to the security of the United States, its allies,
14 and other friendly nations, and has necessitated in-
15 creases in the defense budgets of these nations.”.

16 AMENDMENTS TO DECLARATION OF POLICY

17 SEC. 2. Section 3 of the Public Law 96–72 is amended
18 as follows:

19 (1) by striking in paragraph (3) the word “and”;
20 (2) by deleting in paragraph (3) the period which
21 ends the sentence, and adding in lieu thereof, “, and
22 (C) to negotiate bilaterally or multilaterally to elimi-
23 nate, whenever possible, the availability of goods and
24 technology from foreign sources that are present in suf-
25 ficient quantity and are of comparable quality with

1 those controlled or proposed to be controlled for na-
2 tional security purposes in the United States so as to
3 render the controls ineffective in achieving their pur-
4 poses.”.

5 (3) by redesignating paragraphs (10) and (11) as
6 paragraphs (11) and (12), respectively, and inserting
7 after paragraph (9);

8 “(10) It is the policy of the United States to seek
9 arrangements with those countries not participating in
10 the group known as the Coordinating Committee to re-
11 strict the export of United States goods and technology
12 that are controlled for national security reasons.”; and

13 (4) by adding new paragraphs (13) and (14) as fol-
14 lows:

15 “(13) It is the policy of the United States when
16 imposing new foreign policy controls to minimize the
17 impact of preexisting contracts and on business activi-
18 ties in allied or other friendly countries to the extent
19 consistent with the underlying purpose of the controls.

20 “(14) It is the policy of the United States to de-
21 velop licensing mechanisms to minimize the burdens
22 placed on United States export trade, particularly
23 United States export trade with member countries of
24 COCOM, Australia, and New Zealand.”.

1 AMENDMENTS TO GENERAL PROVISIONS

2 SEC. 3. Section 4 of Public Law 96-72 is amended as
3 follows:

4 (1) by deleting in paragraph (2) in subsection (a).
5 “A qualified general license,” and substituting in lieu
6 thereof “Licenses”;

7 (2) by modifying subsection (b) to read as follows:

8 “(b) CONTROL LIST.—The Secretary shall establish
9 and maintain a list (hereinafter in this Act referred to as the
10 ‘Control List’) indicating license requirements for exports to
11 various countries of destination subject to control under this
12 Act.”; and

13 (3) by deleting in subsection (c) “significant” and
14 substituting in lieu thereof “sufficient”, and inserting
15 after “to those produced in the United States” the
16 words “so as to render the controls ineffective in
17 achieving their purposes”.

18 AMENDMENTS TO NATIONAL SECURITY CONTROLS

19 SEC. 4. Section 5 of Public Law 96-72 is amended as
20 follows:

21 (1) in paragraph (1) of subsection (a), by inserting
22 after the first sentence, “This authority includes the
23 power to prohibit or curtail the transfer of goods or
24 technologies within the United States to embassies and

1 affiliates of countries to which exports of these goods
2 or technologies are controlled.”;

3 (2) by deleting subparagraph (B) in paragraph (2)
4 of subsection (a) and by striking “(A)” before the first
5 sentence of paragraph (2) of subsection (a);

6 (3) by deleting the word “commodity” in the first
7 sentence of paragraph (1) in section (c), and by deleting
8 the second sentence in that paragraph and substituting
9 in lieu thereof: “The Secretary shall clearly identify on
10 the control list which goods and technical data and
11 countries or destinations are subject to which types of
12 controls under this section.”;

13 (4) by modifying the heading of subsection (d) to
14 read “Militarily Critical Goods and Technologies.”;

15 (5) by modifying subparagraph (B) of paragraph
16 (2) in subsection (d) to read “keystone materials and
17 manufacturing, inspection, and test equipment, and”;

18 (6) by deleting the word “commodity” in para-
19 graph (5) of subsection (d);

20 (7) by redesignating paragraph (6) of subsection
21 (d) as paragraph (7), and inserting after paragraph (5):

22 “(6) The establishment of adequate export controls for
23 militarily critical technology and keystone equipment shall be
24 accompanied by suitable reductions in the controls over the
25 products of that technology and equipment.”;

1 (8) by deleting subsection (e) in its entirety, and
2 redesignating subsections (f)–(l) as (e)–(k), respectively;

3 (9) in paragraph (1) of subsection (e), as redesign-
4 nated, by striking “sufficient quality” and substituting
5 in lieu thereof “comparable quality”;

6 (10) in paragraph (2) of subsection (e), as redesign-
7 nated, by striking “sufficient quality” and substituting
8 in lieu thereof “comparable quality”;

9 (11) by redesignating paragraphs (3)–(6) in sub-
10 section (e), as redesignated, as (4)–(7), respectively,
11 and adding a new paragraph (3) as follows:

12 “(3) The mere capacity of a foreign country to produce
13 items in sufficient quantity and of comparable quality with
14 those controlled by the United States, so as to render the
15 controls ineffective in achieving their purposes, does not, in
16 and of itself, constitute foreign availability.”;

17 (12) by striking in the first sentence of paragraph
18 (5) of subsection (e), as redesignated, “take steps to
19 initiate” and substituting in lieu thereof “actively
20 pursue”;

21 (13) in section (f), as redesignated—

22 (a) by striking “and qualified general li-
23 censes” in the first sentence,

24 (b) by inserting at the end of the first sen-
25 tence, “The regulations issued by the Secretary

1 shall establish as one criterion for the removal of
2 goods or technology the anticipated needs of the
3 military of countries to which exports are con-
4 trolled for national security purposes.”, and

5 (c) by deleting from the existing second sen-
6 tence “by the latest such increase” and substitut-
7 ing in lieu thereof “by the regulations”;

8 (14) by striking in paragraph (6) of subsection (g),
9 as redesignated, “(f)(1)”, and substituting in lieu there-
10 of “(e)(1)”;

11 (15) by striking in paragraph (1) of subsection (h),
12 as redesignated, “agreement of the Committee,” where
13 it appears the second time and substituting in lieu
14 thereof “list,”;

15 (16) by striking in paragraph (2) of subsection (h),
16 as redesignated, “discussing export control policy
17 issues and issuing policy guidance” and substituting in
18 lieu thereof “providing guidance on export control
19 policy issues”;

20 (17) by striking in paragraph (3) of subsection (h),
21 as redesignated, “reduce” and substituting in lieu
22 thereof “modify”;

23 (18) by inserting in paragraph (4) of subsection
24 (h), as redesignated, after “effective procedures for”
25 the words “administering and”;

1 (19) by inserting after paragraph (4) of subsection
2 (h), as redesignated, paragraphs (5) and (6) as follows:

3 “(5) Agreement to improve the International Control
4 List and minimize the approval of exceptions to that list,
5 strengthen enforcement and cooperation in enforcement ef-
6 forts, provide sufficient funding for COCOM, and improve the
7 structure and function of the COCOM Secretariat by upgrad-
8 ing professional staff, translation services, data base mainte-
9 nance, communications, and facilities.

10 “(6) Agreement to strengthen COCOM so that it func-
11 tions effectively in controlling export trade in a manner that
12 better protects the national security of each participant to the
13 mutual benefit of all.”;

14 (20) by inserting in subsection (j), as redesignated,
15 after “other countries” the words “, including those
16 countries not participating in the group known as the
17 Coordinating Committee,” by striking “policy” and
18 substituting in lieu thereof “policies”, and by striking
19 “section 3(9)” and inserting in lieu thereof “sections
20 3(9) and 3(10)”; and

21 (21) by inserting after “Munitions List” in para-
22 graph (2) of subsection (k), as redesignated, “or the
23 military use of any item on the COCOM List”.

1 AMENDMENTS TO FOREIGN POLICY CONTROLS

2 SEC. 5. Section 6 of Public Law 96-72 is amended as
3 follows:

4 (1) by deleting in subsection (c) "with such affect-
5 ed United States industries as the Secretary considers
6 appropriate," and substituting in lieu thereof "as ap-
7 propriate with affected United States industries";

8 (2) by inserting after the first sentence in subsec-
9 tion (f) "This section also does not authorize export
10 controls on donations of articles, such as food and
11 clothing, intended to be used to relieve human suffer-
12 ing, except to the extent that the President determines
13 that such donations are in response to coercion against
14 the proposed recipient or donor.";

15 (3) by striking in the first sentence of subsection
16 (k) the word "commodity";

17 (4) by striking the second sentence of subsection
18 (k) and substituting in lieu thereof "The Secretary shall
19 clearly identify on the control list which goods and
20 technical data and countries or destinations are subject
21 to which types of controls under this section."; and

22 (5) by adding at the end of section 6 a new sub-
23 section as follows:

24 "(l) SANCTITY OF CONTRACT.—The President shall not
25 prohibit or curtail the export of any good or technology that

1 is controlled under this section if such goods or technology is
 2 to be exported pursuant to a sales contract (1) entered into
 3 before the President places the export under control, and (2)
 4 the terms of which require delivery of the export within 270
 5 days after the control is imposed, except that the President
 6 may prohibit or curtail such export if he determines that not
 7 prohibiting or curtailing such export would prove detrimental
 8 to the overriding national interests of the United States.”.

9 AMENDMENTS TO SHORT SUPPLY CONTROLS

10 SEC. 6. Section 7 of Public Law 96-72 is amended by
 11 deleting in their entirety subsections (c), (e), (f), (h), (i), and
 12 (j), by deleting paragraphs (1) and (2) of subsection (d), by
 13 redesignating paragraph (3) of subsection (d) as subsection
 14 (c), and by redesignating subsection (g) as subsection (d).

15 AMENDMENTS TO PROCEDURES FOR PROCESSING EXPORT

16 LICENSE APPLICATIONS

17 SEC. 7. Section 10 of Public Law 96-72 is amended as
 18 follows:

19 (1) by striking in the first sentence of subsection

20 (b) “10” and substituting in lieu thereof “14”;

21 (2) by striking in subsection (c) “90” and substi-
 22 tuting in lieu thereof “60”; and

23 (3) by inserting in paragraph (3) in subsection (f)
 24 after “the policies set forth in section 3 of the Act
 25 which would be furthered by denial,” and before “and,

1 to the extent consistent with the national security” the
2 following: “what, if any, modifications in or restrictions
3 on the goods or technology for which the license was
4 sought would allow such export to be compatible with
5 controls imposed under this Act,”.

6 AMENDMENTS TO VIOLATIONS PROVISIONS

7 SEC. 8. Section 11 of Public Law 96-72 is amended as
8 follows:

9 (1) by inserting in paragraph (a) after “violates”
10 the following “or conspires to or attempts to violate”;

11 (2) by deleting in paragraph (1) in subsection (b)
12 “exports anything contrary to” and substituting in lieu
13 thereof “violates or conspires to or attempts to vio-
14 late”;

15 (3) by inserting in paragraph (1) in subsection (b)
16 after “benefit of” the following, “or that the destina-
17 tion or intended destination of the goods or technology
18 involved is”, and by striking “restricted” and substitut-
19 ing in lieu thereof “controlled”;

20 (4) by adding at the end of paragraph (1) in sub-
21 section (b) the sentence “For purposes of this subsec-
22 tion, a country to which exports are controlled for na-
23 tional security purposes is one identified pursuant to
24 the determinations made in accordance with subsection
25 5(b) of this Act,”;

1 (5) by inserting after paragraph (2) in subsection
2 (b) the following paragraphs:

3 “(3) Whoever possesses any goods or technology with
4 the intent to export them contrary to this Act or any regula-
5 tion, order, or license issued thereunder shall be subject to
6 the penalties as provided in subsection 11(a), except for a
7 national security violation which would be subject to the pen-
8 alties as provided in subsection 11(b)(1).

9 “(4) Nothing in this subsection or subsection (a) shall
10 limit the power of the Secretary to define by regulations vio-
11 lations under this Act.”;

12 (6) by inserting after paragraph (2) in subsection
13 (c) the following new paragraph:

14 “(3) Whoever violates any national security control im-
15 posed under section 5 of this Act, or any regulation, order, or
16 license related thereto, may be subject to such controls on the
17 importing of its goods or technology into the United States or
18 its territories and possessions as the President may pre-
19 scribe.”;

20 (7) by inserting in subsection (e) after “subsection
21 (c)” the words “or any amounts realized from the for-
22 feiture of property interest or proceeds forfeited pursu-
23 ant to subsection (f)”, and by inserting after “refund
24 any such penalty” the words “imposed pursuant to
25 subsection (c)”;

1 (8) by redesignating subsections (f) and (g) as sub-
2 sections (g) and (i), respectively;

3 (9) by inserting after subsection (e):

4 “(f) FORFEITURE OF PROPERTY INTEREST AND PRO-
5 CEEDS.—(1) Whoever has been convicted of a national secu-
6 rity export control violation under subsection (a) or (b) shall,
7 in addition to any other penalty, forfeit to the United States:

8 “(A) any of his interest in, security of, claim
9 against, or property or contractual rights of any kind
10 in the goods or technology that were the subject of the
11 violation;

12 “(B) any of his interest in, security of, claim
13 against, or property or contractual rights of any kind
14 in property that was used to facilitate the commission
15 of the violation; and

16 “(C) any of his property constituting, or derived
17 from, any proceeds obtained directly or indirectly as a
18 result of such violations.

19 “(2) The procedures in any criminal forfeiture under this
20 section, and the duties and authority of the courts of the
21 United States and the Attorney General with respect to any
22 criminal forfeiture action under this section or with respect to
23 any property that may be subject to forfeiture under this sec-
24 tion, are to be governed by the provisions of section 1963 of
25 title 18, United States Code.”;

1 (10) by inserting after subsection (g), as redesignated, the following paragraph:

2 “(h) **PRIOR CONVICTIONS.**—No person convicted of es-
 3 pionage under title 18, United States Code, section 793, 794,
 4 or 798, title 50, United States Code, section 783(b), or the
 5 Arms Export Control Act, title 22, United States Code, sec-
 6 tion 2778, shall be eligible, at the discretion of the Secretary,
 7 to apply for, or use, any export license during a period of up
 8 to 10 years from the date of conviction. Any outstanding
 9 export licenses in which such a person has an interest may be
 10 revoked, at the discretion of the Secretary, at the time of
 11 conviction.”; and

12 (11) by striking “or” after “(d),” in the introduc-
 13 tory language that precedes paragraph (1) in subsection
 14 (i), as redesignated, and inserting after “(f)”, “(g) or
 15 (h)”.

16 **AMENDMENTS TO ENFORCEMENT PROVISIONS**

17 **SEC. 9.** Section 12 of Public Law 96–72 is amended as
 18 follows:

- 19 (1) by striking in subsection (e) “section 5(h)” and
 20 substituting in lieu thereof “section 5(g)”; and
 21 (2) by striking in subsection (e) “commodity”.

22 **AMENDMENTS TO ANNUAL REPORT**

23 **SEC. 10.** Section 14 of Public Law 96–72 is amended
 24 as follows:

1 (1) in subsection (a)—

2 (a) by deleting paragraph (6) in its entirety,
3 and by redesignating paragraphs (7)–(20) as para-
4 graphs (6)–(19), respectively;

5 (b) by striking “section 5(f)” in paragraph
6 (6), as redesignated, and substituting in lieu there-
7 of “section 5(e)”;

8 (c) by striking “section 5(f)(5)” in paragraph
9 (7), as redesignated, and substituting in lieu there-
10 of “section 5(e)(6)”;

11 (d) by striking “section 5(g)” in paragraph
12 (8), as redesignated, and substituting in lieu there-
13 of “section 5(f)”;

14 (e) by striking “section 5(h)” in paragraph
15 (9), as redesignated, and substituting in lieu there-
16 of “section 5(g)”;

17 (f) by striking “section 4(e)” in paragraph
18 15, as redesignated, and substituting in lieu there-
19 of “section 4(d)”;

20 (2) by striking “section 5(i)” in subsection (c) and
21 substituting in lieu thereof “section 5(h)”.

22 AMENDMENTS TO EFFECT ON OTHER ACTS

23 SEC. 11. Section 17 of Public Law 96–72 is amended—

24 (1) by striking the last sentence in subsection (c)
25 and substituting in lieu thereof: “For purposes of this

1 subsection, the term 'controlled country' means any
2 country to which exports are controlled under section 5
3 of this Act because of a finding that a significant con-
4 tribution to the military potential of that country would
5 prove detrimental to the national security of the United
6 States,"; and

7 (2) by deleting in paragraph (2) of subsection (d),
8 "that they are consistent with such published proce-
9 dures, except".

10 AMENDMENTS TO AUTHORIZATION OF APPROPRIATIONS

11 SEC. 12. Section 2417 of title 50, Appendix, United
12 States Code, is amended by striking paragraph (1) of section
13 (b) and substituting in lieu thereof:

14 "(1) such sums as may be necessary for each of
15 the fiscal years 1984, 1985, 1986, and 1987, and".

16 AMENDMENTS TO TERMINATION DATE

17 SEC. 13. Section 20 of Public Law 96-72 is amended
18 by deleting "1983" and substituting "1987".

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